

REMARKS

Objections to the Specification:

In the specification, headings have been supplied as suggested by the Examiner in the Office Action dated June 8, 2006.

Claim Rejections:

1. Rejection under section 112

Claims 1 and 13 have been rejected under 35 U.S.C. 112 as lacking proper antecedent basis. These claims have been amended as suggested by the Examiner to provide proper antecedence.

2. Rejections under section 103(a)

Claims 1 to 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent number 6,755,049 to Korus et al. (hereinafter "Korus").

The Korus patent issued on June 29, 2004 from an application published on October 3, 2002. The present application is the U.S. national stage of an International Application filed on April 3, 2003, which is the effective U.S. filing date for this application. The Korus application was not published until six months prior to the effective U.S. filing date, and therefore Korus could be potential prior art only under 35 U.S.C. § 102(e).

35 U.S.C. § 103(c)(1) states that:

subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 ... shall not preclude patentability where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Section 103(c)(2) further states that:

subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if:

(a) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

(b) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

(c) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

The invention of the present application was made under a joint research agreement between Heraeus Quarzglas GmbH (now Heraeus Quarzglas GmbH & Co. KG) and Wacker Siltronic AG (now Siltronic AG). The invention of the Korus patent was developed for and owned by Heraeus Quarzglas GmbH, a party to that joint research agreement.

A statement as required by 35 U.S.C. § 103(c)(2) is attached, and a statement identifying the parties to the joint research agreement has been inserted in the specification, as required by 35 U.S.C. § 103(c)(2)(c). A check, including the amount of \$130.00, is enclosed to meet the fee for assertion of this joint research agreement at this stage of the prosecution. Should the check be insufficient or not found, please deduct any necessary fee from deposit account 501659.

Accordingly, under 35 U.S.C. sec. 103(c), an obviousness rejection in the present application cannot be based on the Korus patent, and withdrawal of the §103 rejection based on Korus is respectfully solicited.

All objections of the Examiner having been addressed, and the prior art of the rejections having been excluded under 35 U.S.C. § 103(c), formal allowance is respectfully requested.

Should any questions arise, the Examiner is invited to telephone attorney for applicants at 212-

490-3285.

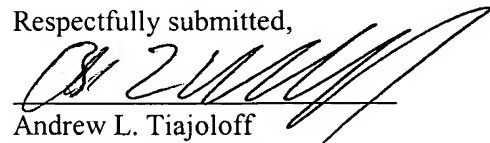
10/18/2006 MKAYPAGH 00000101 10512114

01 FC:1251

120.00 DP

Tiajolloff & Kelly
Chrysler Building, 37th floor
405 Lexington Avenue
New York, NY 10174
tel. 212-490-3285
fax 212-490-3295

Respectfully submitted,


Andrew L. Tiajolloff
Registration No. 31,575

10/18/2006 MKAYPAGH 00000101 10512114

02 FC:1206

130.00 DP